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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/982,114	10/17/2001	David J. Kinsella	500863.000016	9326

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EXAMINER

GELAGAY, SHEWAYE

ART UNIT	PAPER NUMBER
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2133

DATE MAILED: 08/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/982,114

Applicant(s)

KINSELLA ET AL.

Examiner

Shewaye Gelagay

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 02 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3, 4, 12 and 13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3, 4, 12 and 13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

Response to Arguments

1. This office action is in response to Applicant's amendment filed on June 2, 2005. Claims 1-2, 5-11 and 14-28 have been cancelled; claims 3-4, 12-13 have been amended. Claims 2-3 and 12-13 are pending.

Applicant's arguments, see Remarks, filed June 2, 2005, with respect to the rejection(s) of claim(s) 3-4 and 12 have been considered but are not persuasive.

Applicant argues that the cited prior art, Moriconi et al. U.S. Patent 6,158,010 (hereinafter Moriconi) does not teach the limitations authorization profile and audit log storage as disclosed by the applicant. The Examiner disagrees with the applicant because Moriconi discloses an authorization request that is recorded in an audit log to keep track of the authorization requests, whether they were granted or denied. (Col. 4, lines 31-34) Moriconi also discloses an audit log data file that is used to record authorization requests. (Col. 9, lines 3-4) Furthermore, Moriconi discloses the audit log can also include other useful information. Therefore, it is respectfully asserted that the authorization profile and the audit log disclosed by Moriconi are stored or recorded which is similar to the one presented by the applicant. Regarding claim 4, the Applicant argues Der Ghazarian et al. U.S. Patent 6,726,636 (hereinafter Der Ghazarian) does not teach biometric information. Der Ghazarian discloses a device that analyzes breath content based on voice recognition. (Col. 3, lines 51-52) It is well known in the art that voice is considered as biometric information. It would have been obvious to use other biometrics in order to perform substance detection by the substance detection sensor.

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Regarding claim 12, the Applicant argues Bolle et al. U.S. Patent 6,819,219 (hereinafter Bolle) does not teach a proxy passkey. The Examiner disagrees with the Applicant because Bolle discloses a portable device with reader and duplex connection that can be used to make a connection using biometric authentication. (Col. 6, lines 15-42 and lines 59-67; Col. 8, lines 1-2)

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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3. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Scott et al. United States Letter Patent Number 6,484,260 in view of Moriconi et al. United States Letter Patent Number 6,158,010.

As per claim 3:

Scott et al. disclose a biometric passkey device configured to perform one or more transactions with a remote computer system without transmitting any biometric information to that remote computer system, the passkey device being configured to:

(a) authenticate the identity of a user by comparing the user's unique biometric information with biometric information stored with the passkey device; (Col. 1, lines 56-57 and Col. 4, lines 14-20)

(b) transmit unique passkey device information to the remote computer system to authenticate the identity of the passkey device; (Col. 1, line 61; Col. 2, lines 20-21 and Col. 4, lines 31-32) and

(c) perform one or more transactions with the remote computer system if the identity of the user is first authenticated by the passkey device and the identity of the passkey device is next authenticated by the remote computer system. (Col. 4, lines 20-40 and lines 57-60)

Scott et al. do not explicitly disclose a device wherein the device further comprises audit log storage and authorization profile storage.

Moriconi et al. in analogous art, however, disclose a device comprising audit log and authorization profile storage. (Col. 4, lines 31-34; Col. 9, lines 3-5)

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the device disclosed by Scott et al. to include a device comprising an audit log and an authorization profile storage. This modification would have been obvious because a person having ordinary skill in the art would have been motivated to do so, as suggested by, Moriconi et al. (Col. 3, lines 54-56) in order to provide an access control system that can manage individual transactions by users.

4. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Scott et al. United States Letter Patent Number 6,484,260 in view of Moriconi et al. United States Letter Patent Number 6,158,010 and further in view of Der Ghazarian et al. United States Letter Patent Number 6,726,636.

As per claim 4:

Scott et al. and Moriconi et al. disclose all the subject matter as discussed above. Both references do not explicitly disclose a device wherein the biometric information may be one of retina scan, DNA recognition, thumb or toe print, or a handwriting sample, the device further comprises a substance detection sensor.

Der Ghazarian et al. in analogous art, however, disclose a device wherein the biometric information may be one of retina scan, DNA recognition, thumb or toe print, or a handwriting sample, the device further comprises a substance detection sensor. (Col. 3, lines 38-40)

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the device disclosed by Scott et al. to

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include a device wherein the biometric information may be one of retina scan, DNA recognition, thumb or toe print, or a handwriting sample, the device further comprises a substance detection sensor. This modification would have been obvious because a person having ordinary skill in the art would have been motivated to do so, as suggested by, Der Ghazarian et al. (Col. 3, lines 29-30) in order to provide a versatile system that can perform sobriety test or other test using biometric recognition.

5. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Scott et al. United States Letter Patent Number 6,484,260 in view of Bolle et al. United States Letter Patent Number 6,819,219.

As per claim 12:

Scott et al. disclose a system for performing secure transactions between a biometric passkey device and a remote computer system without transmitting any biometric information to that remote computer system, the system comprising:

(a) a biometric passkey device configured to (i) authenticate the identity of a user by comparing the user's unique biometric information with biometric information stored with the passkey device; (Col. 1, lines 56-57 and Col. 4, lines 14-20) and (ii) transmit unique passkey device information to the remote computer system; (Col. 1, line 61; Col. 2, lines 20-21 and Col. 4, lines 31-32) and

(b) a remote computer system configured to (i) authenticate the identity of the passkey device by comparing the unique passkey device information with device information stored on the remote computer system; (Col. 4, lines 31-33 and lines 58-60) and (ii) allow the passkey device to perform one or more transactions on the remote

computer system if the identity of the user is first authenticated by the passkey device and the identity of the passkey device is next authenticated by the remote computer system. (Col. 4, lines 20-40 and lines 57-60)

Scott et al. do not explicitly teach a system wherein the passkey device comprises a proxy passkey.

Bolle et al. in analogous art, however disclose a system wherein the passkey device comprises a proxy passkey. (Col. 7, line 67 and Col. 8, lines 1-2; *the office has interpreted proxy passkey as a portable reader. The interpretation is given based on the explanation given on the disclosure*)

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the system disclosed by Scott et al. to include a system wherein the passkey device comprises a proxy passkey. This modification would have been obvious because a person having ordinary skill in the art would have been motivated to do so, as suggested by Bolle et al. (Col. 8, lines 3-7) in order to implement the system in various wireless environments such as portable telephone, badge, electronic wallet, wireless smartcard, personal digital assistants or equivalents.

6. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Scott et al. United States Letter Patent Number 6,484,260 in view of Bolle et al. United States Letter Patent Number 6,819,219 and further in view of Moriconi et al. United States Letter Patent Number 6,158,010.

As per claim 13:

Scott et al. and Bolle et al. disclose all the subject matter as discussed above. Both references do not explicitly disclose a device comprising an authorization profile storage and an audit log storage.

Moriconi et al. in analogous art, however, disclose a device comprising audit log and authorization profile storage. (Col. 4, lines 31-34; Col. 9, lines 3-5)

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the device disclosed by Scott et al. to include a device comprising an audit log and an authorization profile storage. This modification would have been obvious because a person having ordinary skill in the art would have been motivated to do so, as suggested by, Moriconi et al. (Col. 3, lines 54-56) in order to provide an access control system that can manage individual transactions by users.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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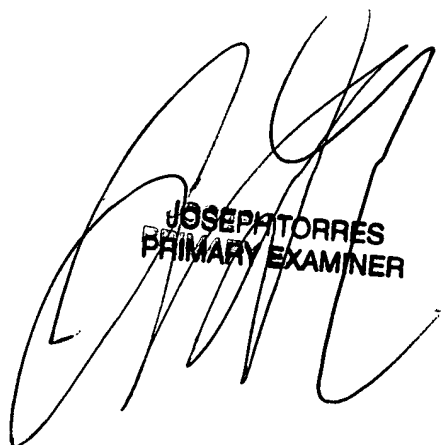
the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shewaye Gelagay whose telephone number is 571-272-4219. The examiner can normally be reached on 8:00 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Albert Decady can be reached on 571-272-3819. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

8/19/05


JOSEPH TORRES
PRIMARY EXAMINER

Shewaye Gelagay
Examiner
Art Unit 2133

